

Appl. No. 09/346,069  
Amndt. dated  
Reply to Final Office Action of May 3, 2004

### **REMARKS**

Entry of the Amendment is respectfully requested. Applicants submit the Amendment places the application in condition for allowance and raises no issues not previously considered by the Examiner. Claim 34 has been amended to further clarify the claimed invention. After entry of the Amendments, claims 15, 18, and 34-59 will be pending. Claims 49-59 have been withdrawn from consideration.

### **Double Patenting Rejection**

Applicants thank the Examiner for postponing the double patenting rejection until subject matter is indicated as allowable.

### **Anticipation**

The Examiner rejected claim 34 under 35 U.S.C. § 102(a) as anticipated by Tischer et al. (U.S. Patent No. 5,219,739). Without acquiescing to the rejection and solely to expedite prosecution, Applicants have directed the claims (as suggested by the Examiner) to a composition comprising a non-naturally occurring variant of native VEGF. Applicants submit Tischer et al. does not teach a composition comprising a non-naturally occurring variant of VEGF as claimed. Withdrawal of the anticipation rejection is respectfully requested.

### **Obviousness**

The Examiner rejected claims 35-48 under 35 U.S.C. § 103(a) as unpatentable over Tischer et al. (U.S. Patent No. 5,219,739). Without acquiescing to the rejection and solely to expedite prosecution, Applicants have directed the claims (as suggested by the Examiner) to a composition comprising a non-naturally occurring variant of native VEGF. Applicants submit Tischer et al. does not teach or suggest a composition comprising a non-naturally occurring variant of VEGF as claimed. Withdrawal of the obviousness rejection is respectfully requested.

### **Conclusion**

In light of the forgoing Amendment and Remarks, Applicants' assert the claims are in condition for allowance. Early notice of allowable claims is requested. The Examiner is invited

07-06-04 03:42PM FROM-Merchant & Gould

6123329081

T-682 P.008/008 F-037

Appl. No. 09/346,069

Amdt. dated

Reply to Final Office Action of May 3, 2004

to telephone the undersigned attorney for clarification of any of these Remarks or Amendments,  
or to otherwise speed prosecution of this case.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: 6 July 2004

Denise M. Kettelberger

Denise M. Kettelberger, Ph.D.  
Reg. No. 33,924  
DMK:EED:lek

